

AMENDED IN ASSEMBLY JANUARY 3, 2000

AMENDED IN ASSEMBLY APRIL 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1542

Introduced by Assembly Member Granlund

February 26, 1999

~~An act to add Article 10 (commencing with Section 100580) to Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, relating to health care administration, and making an appropriation therefor. An act to amend Section 14110.8 of the Welfare and Institutions Code, relating to Medi-Cal.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1542, as amended, Granlund. ~~Physicians and surgeons: audits and inspections: certification~~ *Nursing facility services: Medi-Cal beneficiaries.*

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which health care services are provided to qualified low-income individuals.

Existing law prohibits a nursing facility from requiring or soliciting, as a condition of admission, that a Medi-Cal beneficiary have a responsible party sign or cosign the admissions agreement, or from accepting or receiving the signature or cosignature of a responsible party for a Medi-Cal beneficiary. The facility may, however, require that when a beneficiary has an agent, the agent sign or cosign the

admissions agreement and agree to distribute to the facility, promptly when due, the share-of-cost and any other charges not paid for by the Medi-Cal program that the patient or his or her agent has agreed to pay.

Existing law provides that any agent who willfully violates these provisions is guilty of a misdemeanor.

This bill would, instead, specify that when any individual violates the foregoing requirements, he or she is guilty of a misdemeanor, or in a civil action brought by an aggrieved party, as defined, shall be liable to the aggrieved party for an amount equal to the sum of the patient's funds received by the individual but not distributed by the facility, including interest at the legal rate, plus a civil penalty not to exceed 3 times the actual amount of the unpaid charges for which he or she is liable, as well as costs and reasonable attorney's fees.

The bill would also require a patient and his or her agent to pay to the facility the share of cost to which he or she is responsible under the Medi-Cal program, unless otherwise exempted by law from this obligation.

Because the bill would change the definition of a crime, the bill would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law imposes various functions and duties on the State Department of Health Services with respect to the administration and oversight of various health programs and facilities as well as the regulation of laboratory services.~~

~~This bill would require the department to certify qualified entities that meet prescribed standards to conduct comprehensive audits and inspections of physician and surgeons' offices that may be utilized by any health care service plan or physician organization. It would also require the department to prescribe an application fee and other fees it deems appropriate for purposes of certifying qualified entities and to deposit these fees in the Physician and Surgeon Audit and Inspection Fund created by the bill. Because~~

~~money in the fund would be continuously appropriated to the department for purposes of implementing these provisions; the bill would make an appropriation.~~

Vote: ~~2/3~~ majority. Appropriation: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

~~SECTION 1. Article 10 (commencing with Section 100580) is added to Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, to read:~~

~~Article 10. Audits and Inspections~~

~~100580. The department shall certify qualified entities to conduct comprehensive audits and inspections of physician and surgeons' offices that may be utilized by any health care service plan or physician organization. An entity shall be deemed qualified and shall be certified by the department if the entity meets prescribed standards.~~

~~100581. The department shall prescribe an application fee and other fees it deems appropriate for purposes of certifying qualified entities pursuant to Section 100580. The fees collected by the department shall be deposited in the Physician and Surgeon Audit and Inspection Fund that is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the department without regard to fiscal years for purposes of implementing this article.~~

~~SECTION 1. Section 14110.8 of the Welfare and Institutions Code is amended to read:~~

~~14110.8. (a) For the purposes of this section:~~

~~(1) "Facility" means a ~~nursing~~ any long-term health care facility as defined in Section 1418 of the Health and Safety Code.~~

~~(2) "Patient" means a person who is a facility resident and a Medi-Cal beneficiary and whose facility care is being paid for in whole or in part by Medi-Cal.~~

(3) “Agent” means a person who manages, uses, or controls those funds or assets that legally may be used to pay the patient’s share of cost and other charges not paid for by the Medi-Cal program.

(4) “Responsible party” means a person other than the patient or potential patient, who, by virtue of signing or cosigning an admissions agreement of a nursing facility, either together with, or on behalf of, a potential patient, becomes personally responsible or liable for payment of any portion of the charges incurred by the patient while in the facility. A person who signs or cosigns a facility’s admissions agreement by virtue of being an agent under a power of attorney for health care or an attorney-in-fact under a durable power of attorney executed by the potential patient, a conservator of the person or estate of the potential patient, or a representative payee, is not a responsible party under this section, and does not thereby assume personal responsibility or liability for payment of any charges incurred by the patient, except to the extent that the person, or the patient’s conservator or representative payee is an agent as defined in paragraph (3).

(5) “Aggrieved party” means a Medi-Cal beneficiary, a facility, or a state or federal agency administering the Medi-Cal program, that has been damaged by the willful violation of this section by any individual.

(6) “Willfully” means to intentionally, knowingly, or purposely acting, or acting or failing to act with intentional disregard for the consequences, without justifiable excuse.

(b) No facility may require or solicit, as a condition of admission into the facility, that a Medi-Cal beneficiary have a responsible party sign or cosign the admissions agreement. No facility may accept or receive, as a condition of admission into the facility, the signature or cosignature of a responsible party for a Medi-Cal beneficiary.

(c) A facility may require, as a condition of admission, where a patient has an agent, that the patient’s agent sign or cosign the admissions agreement and agree to

1 distribute to the facility promptly when due, the share of
2 cost and any other charges not paid for by the Medi-Cal
3 program which the patient or his or her agent has agreed
4 to pay. ~~The Except as provided in subdivisions (e) and~~
5 ~~(f), the financial obligation of the agent shall be limited~~
6 ~~to the amount of the patient's funds received but not~~
7 ~~distributed to the facility. A new agent who did not sign~~
8 ~~or cosign the admissions agreement shall be held~~
9 ~~responsible to distribute funds in accordance with this~~
10 ~~section.~~

11 (d) When a patient on non-Medi-Cal status converts to
12 Medi-Cal coverage, any security deposit paid to the
13 facility by the patient or on the patient's behalf as a
14 condition of admission to the facility shall be returned and
15 the obligations and responsibilities of the patient or
16 responsible party shall be null and void, *except for the*
17 *obligations and responsibilities provided for under the*
18 *Medi-Cal program.*

19 (e) *A patient and his or her agent shall pay to the*
20 *facility the share of cost for which he or she is responsible*
21 *under the provisions of the Medi-Cal program, unless*
22 *otherwise exempted by law.*

23 ~~(e) Any agent who~~

24 (f) *When any individual willfully violates the*
25 *requirements of this section, the individual is guilty of a*
26 *misdemeanor, and upon conviction thereof, shall be*
27 *punished by a fine not to exceed two thousand five*
28 *hundred dollars (\$2,500) or by imprisonment in the*
29 *county jail not to exceed 180 days, or both, or, in a civil*
30 *action brought by the aggrieved party, shall be liable to*
31 *the aggrieved party for an amount equal to the sum of the*
32 *patient's funds received by the individual, but not*
33 *distributed to the facility, including interest at the legal*
34 *rate, plus a civil penalty not to exceed three times the*
35 *actual amount of the unpaid charges for which the*
36 *individual is liable.*

37 (g) *In any civil action brought under this section in*
38 *which judgment is entered against an individual for*
39 *willfully violating the requirements of this section, the*

1 *plaintiff shall be awarded costs plus reasonable attorney's*
2 *fees.*

3 *SEC. 2. No reimbursement is required by this act*
4 *pursuant to Section 6 of Article XIII B of the California*
5 *Constitution because the only costs that may be incurred*
6 *by a local agency or school district will be incurred*
7 *because this act creates a new crime or infraction,*
8 *eliminates a crime or infraction, or changes the penalty*
9 *for a crime or infraction, within the meaning of Section*
10 *17556 of the Government Code, or changes the definition*
11 *of a crime within the meaning of Section 6 of Article*
12 *XIII B of the California Constitution.*

